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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,205	08/05/2003	Philip T. Kortum	064198.0164 (T00501)	6829
31625	7590	10/06/2006	EXAMINER	
BAKER BOTT'S L.L.P. PATENT DEPARTMENT 98 SAN JACINTO BLVD., SUITE 1500 AUSTIN, TX 78701-4039			DAY, HERNG DER	
		ART UNIT		PAPER NUMBER
				2128

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/634,205	KORTUM ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Herng-der Day	2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 August 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/5/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____ .                        |

**DETAILED ACTION**

1. Claims 1-20 have been examined and rejected.

*Drawings*

2. The drawings are objected to for the following reasons. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the Examiner, the Applicants will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2-1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

(a) Step 21, as described at pages 8-9.

*Specification*

3. The disclosure is objected to because of the following informalities. Appropriate correction is required.

3-1. The specification is inconsistent with the drawing of FIG. 1. at page 5 including “input and output devices 10b”, “processing unit 10a”, “test computer 12”, “portable boot drive 12”, and “Frame 18”.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5-1. Claim 2 recites the limitation “the master image computer” in line 9 of the claim. There is insufficient antecedent basis for this limitation in the claim.

5-2. Claim 12 recites the limitation “the master image computer” in line 9 of the claim. There is insufficient antecedent basis for this limitation in the claim.

5-3. Claims not specifically rejected above are rejected as being dependent on a rejected claim.

***Recommendations***

6. Claim 1 recites the limitations “the master computer” in line 18 of the claim. For clarification purposes, the Examiner suggests that “the master computer” be replaced with “the master image computer”.

7. Claim 2 recites the limitations “the master computer” in lines 15 and 27 of the claim. For clarification purposes, the Examiner suggests that “the master computer” be replaced with “the master image computer”.
8. Claim 12 recites the limitations “the master computer” in line 17 of the claim. For clarification purposes, the Examiner suggests that “the master computer” be replaced with “the master image computer”.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Critz et al., U.S. Patent 6,553,432 B1 issued April 22, 2003, and filed October 26, 1999.

**10-1.** Regarding claim 1, Critz et al. disclose a method for testing software on a test computer having a base configuration, comprising the steps of:

storing the base configuration of the test computer on a portable boot drive of the test computer (column 2, line 48 to column 3, line 5, column 5, lines 18-44);  
transferring the portable boot drive of the preceding step from the test computer to a master image computer (column 6, line 64 to column 7, line 15);

creating a master image of the base configuration by copying an image from the portable boot drive to storage of the master image computer (column 11, lines 3-14);

transferring the portable boot drive back to the test computer (column 10, lines 11-39);

executing one or more tests on the test computer (columns 10-11);

copying the master image of the base configuration onto a portable boot drive (columns 9-11);

transferring the portable boot drive of the preceding step from the master computer to the test computer; and booting the test computer from the portable boot drive, thereby restoring the test computer to the base configuration (columns 8-11).

**10-2.** Regarding claim 2, Critz et al. disclose a method of testing computer software on a test computer having a base configuration, comprising the steps of:

storing data representing the base configuration of the test computer on a portable boot drive of the test computer (column 2, line 48 to column 3, line 5, column 5, lines 18-44);

creating a master image of the base configuration by copying an image of the portable boot drive to storage of the master image computer (column 2, line 48 to column 3, line 5, column 5, lines 18-44);

testing the computer software on the test computer, using the base configuration (columns 9-11);

copying the master image of the base configuration onto a portable boot drive (column 8, line 62 to column 9, line 11, column 9, lines 30-39);

transferring the portable boot drive of the preceding step from the master computer to the test computer; and booting the test computer from the portable boot drive, thereby restoring the test computer to the base configuration (columns 8-11).

**10-3.** Regarding claim 3, Critz et al. further disclose wherein the storing step is performed with the same portable boot drive as the transferring step (column 10, lines 11-39, lines 48-56).

**10-4.** Regarding claim 4, Critz et al. further disclose wherein the creating step is performed by transferring a portable boot drive from the test computer to the master computer (column 7, lines 17-42).

**10-5.** Regarding claim 5, Critz et al. further disclose wherein the creating step is performed by communicating the image of the portable boot drive over a network from the test computer to the master computer (column 12, lines 25-35).

**10-6.** Regarding claim 6, Critz et al. further disclose wherein the testing or driving step comprises installing new software onto the test computer (column 9, lines 29-33).

**10-7.** Regarding claim 7, Critz et al. further disclose comprising the steps of repeating the testing, transferring, and booting steps (column 9, lines 33-38).

**10-8.** Regarding claim 8, Critz et al. further disclose wherein the copying step (Master-Slave) is performed prior to or during the testing step (column 9, lines 2-11, column 11, lines 15-25).

**10-9.** Regarding claim 9, Critz et al. further disclose wherein the copying step is repeated for a batch of portable boot drives (booting sequence) (columns 10-12).

**10-10.** Regarding claim 10, Critz et al. further disclose wherein the storing and creating steps are repeated for a number of base configurations of the test computer, and the copying step is

performed by selecting one of the number of base configurations (columns 9 and 11, for creating a Master sequence and a lower drive sequence for a Slave process).

**10-11.** Regarding claim 11, Critz et al. further disclose wherein the testing step is performed by using software already part of the base configuration (column 2, line 48 to column 3, line 5).

**10-12.** Regarding claim 12, Critz et al. disclose a method of testing computer software, using one or more alternate base configurations of a test computer, comprising the steps of:

storing data representing one or more base configurations of the test computer on portable boot drives of the test computer (column 2, line 48 to column 3, line 5, column 5, lines 18-44);

creating a master image of each base configuration by copying an image of each portable boot drive to storage of the master image computer (column 2, line 48 to column 3, line 5, column 5, lines 18-44);

testing or executing the computer software on the test computer, using one of the base configurations (columns 9-11);

selecting a base configuration for subsequent testing of the test computer; copying a master image of the selected base configuration onto a portable boot drive; transferring the portable boot drive of the preceding step from the master computer to the test computer (column 10, lines 40-58); and

booting the test computer from the portable boot drive, thereby configuring the test computer with the selected base configuration (columns 9-11).

**10-13.** Regarding claim 13, Critz et al. further disclose wherein each base configuration represents a configuration for a different operating system of the test computer (column 2, line 48 to column 3, line 5).

**10-14.** Regarding claim 14, Critz et al. further disclose wherein the storing step is performed with the same portable boot drive as the transferring step (for a selecting of device and device drive (column 9, lines 30-39, lines 53-58, column 10, lines 11-39).

**10-15.** Regarding claims 15-19, Critz et al. further disclose wherein the creating step is performed by transferring a portable boot drive from the test computer to the master computer, communicating the image of the portable boot drive over a network from the test computer to the master computer (columns 11-12), installing new software onto the test computer (column 8-9). repeating the testing, transferring, and booting steps or during the testing step to drive the components or modules (column 9, line 59 to column 10, line 10, column 10, lines 40-58, for example).

**10-16.** Regarding claim 20, Critz et al. further disclose wherein the testing step is performed by using software already part of the base configuration (columns 11-12).

### ***Conclusion***

**11.** The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Reference to Meyer et al., U.S. Patent 6,317,845 B1 issued November 13, 2001, is cited as disclosing a computer recovery system.

Reference to Pearce et al., U.S. Patent 6,484,308 B1 issued November 19, 2002, is cited as disclosing a method for ensuring data integrity on a removable hard drive.

12. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Herng-der Day whose telephone number is (571) 272-3777. The Examiner can normally be reached on 9:00 - 17:30.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: (571) 272-2100.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Kamini S. Shah can be reached on (571) 272-2279. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Herng-der Day  
October 2, 2006 *H.D.*

*Kamini Shah*  
KAMINI SHAH  
SUPERVISORY PATENT EXAMINER